

Serial No. 146,886

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The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1, 2, 5, 7, 13 (part of record), drawn to compounds, composition and method, where X and Y together with the phenyl is spiro [cyclopentane-1,3'-indoliny], classified in Class 544, subclass 230; 514/254.

II. Claims 1, 2, 5, 7, 13 (part of each), drawn to compounds, composition and method, where Ar is (iso)quinolyl, classified in Class 544, subclass 363, 514/254.

III. Claims 1, 2, 5, 7, 13 (part of each), drawn to compounds, composition and method, where Ar is phthalazinyl, classified in Class 544, subclass 237, 514/248.


IV. Claims 1, 2, 5, 7, 8, 11, 13 (part of ^{each} record), drawn to compounds, composition and method, where Ar is quinazolyl, classified in Class 544, subclass 284; 514/254.


V. Claims 1, 7, 13 (part of each), drawn to compounds, composition and method, where Ar is non of the above and X and Y together with phenyl is quinolyl, classified in Class 544, subclasses 363; 514/254.


elated \Rightarrow VI. Claims 1, 5, 7, 11, 13 (part of each), drawn


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
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
to compounds, composition and method where Ar is benzoisothiazolyl,  is (ox)indolyl, classified in Class 544, subclass 368; 514/254.

✓ VII. Claims 1, 2, 7, 8, 13 (part of each), 4, 10, drawn to compounds, composition and method, where Ar is benzoisothiazole,  is benzoxazolonyl, benzoxazolyl, benzoxazoliny, classified in Class 544, subclass 368, 514/254.


✓ VIII. Claims 1, 7, 13, (part of each), drawn to compounds, composition and method, where Ar is benzoisothiazole,  is indazolyl, benzoimidazolyl, benzotriazolyl, classified in Class 544, subclasses 368; 514/254.


IX. Claims 1, 5, 7, 11, 13 (part of each), 6, 12, drawn to compounds, composition and method where Ar is naphthal,  is (ox)indolyl, classified in Class 544, subclasses 373; 514/253.


X. Claims 1, 2, 7, 8, 13 (part of each), 3, 9, drawn to compounds, composition and method, where Ar is naphthal,  is benzoxazolonyl, benzoxazolyl, benzoxazoliny, classified in Class 544, subclasses 368; 514/253.

XI. Claims 1, 7, 13 (part of each), drawn to compounds, composition and method where Ar is naphthal,  is indazolyl, benzoimidazolyl, benzotriazolyl, classified in Class 544, subclasses 366, 373.

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
XII. Claims 1, 5, 7, 11, 13 (part of each), drawn to compounds, composition and method, where Ar is non of the above,  is (ox)indolyl, classified in Class 544, subclasses 368, 514/254.

XIII. Claims 1, 2, 7, 8, 13 (part of each), drawn to compounds, composition and method, where Ar is non of the above,  is benzoxazolonyl, benzoxazolyl, benzoxazoliny, classified in Class 544, subclasses 368; 514/254.

XIV. Claims 1, 7, 13 (part of each), drawn to compounds, composition and method, where Ar is non of the above,  is indazolyl, benzoimidazolyl, benzotriazolyl, classified in Class 544, subclasses 368; 514/254.

Claims 1, 2, 5, 7, 8, 11 and 13 links(s) inventions I-XIII and XIV.

The inventions are distinct, each from the other, because of the following reasons:

The various Ar and  groups are diverse in structure, some are 5-membered fused ring, some are 6-membered fused ring, some of them have ring nitrogen(s), some have nitrogen(s) and chacolgen, the various heterocycles/carbocyclic rings are different classified and require different computer and chemical abstract search. US '056 is close to XI than the instantly claimed compounds to each other. The various


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groups are distinct to support separate patents.

On a telephonic conversation with Ms. Haltrust on July 6, 1988, a tentative election of a single species is required. The compound on page 23, lines 20-25, 5-(2-(4-(1,2-benzisothiazol-3-yl) piperazinyl)-ethyl)-6-chlorooxindole hydrochloride (VI) is elected as the single species. Accordingly, VI is treated as elected invention with traverse. Claims 2-4, 6, 8-10 and 12 are withdrawn from further consideration as drawn to non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

Claims 1, 5, 7, 11 and 13 are rejected under judicial doctrine as drawn to improper Markush group. The reason for restriction requirement is adhered to. The various Ar,  and the various combination are not art recognized equivalent. The mere fact that there is a single structural similarity (i.e. Ash et al, US '056, US '260, are closer to XI than XI to VI) is not in itself a significant reason to render all the embodiments functional equivalent. In re Winnek 73 USPQ 225.

Claim 1 is rejected under 35 U.S.C. 112, first and second paragraphs, as the claimed invention is not

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described in such full, clear, concise and exact terms as to enable any person skilled in the art to make and use the same, and/or for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following reason apply

1. "Optionally substituted" is unclear and indefinite.

How many substituents?

2. Amendment to correct the compound of example 17 (page 24) is required.

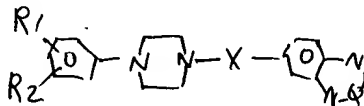
The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1, 7 and 13 are rejected under 35 U.S.C. 103 as being unpatentable over Ash et al, US '056, '260.

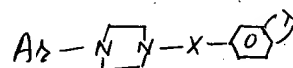
Ash et al, US '056, teaches



wherein X is optionally substituted straight saturated

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or ethylenically unsaturated hydrocarbon chain of 2-4 carbon atoms; R_1 is hydrogen, halogen, alkyl, alkoxy, alkylthio, haloalkyl, cyano, sulphamoyl; R_2 is hydrogen, halogen, alkyl; Q is a straight hydrocarbon containing up to three carbon atoms which may be ethylenically unsaturated, the benz-heterocycle (benzimidazole is disclosed) can be optionally substituted, having psychotropic properties, useful in the treatment of psychiatric disorders. Ash et al (US '260) discloses



X is an optionally substituted straight saturated or ethylenically unsaturated hydrocarbon of 2-4 carbon atoms; Ar is an optionally substituted phenyl group, and T represents the residue of a triazole ring, one nitrogen atom of which may be substituted, having psychotropic activity. The prior compounds are closer to the instantly claimed compounds where Ar as naphthal than the instant compounds to each other (i.e. I to VI, IV to XI, etc).

Remaining references are cited for the state of the art.

Any inquiry concerning this communication should be directed to Examiner Shen at telephone number 703-557-3920.

08/06/88;rbb

Cecilia Shen
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PATENT EXAMINER
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